

REMARKS

Reconsideration of the present application in view of the above claim amendments and the following remarks is respectfully requested.

Status of the Claims

Claims 11, 13-22 and 25-29 are pending. Claims 13, 15, 18, 21-22 and 25-26 are amended. Claims 13 and 21-22 are amended to correct claim dependency, and to change from composition to method. Claim 15 is amended to include the anti-ageing limitation of claim 16, now cancelled. Claim 18 is amended to limit the Markush group to those effects relating to anti-ageing. Claim 25 is amended to indicate that the method comprises applying the composition to human **skin**, and to include the limitation of providing an anti-ageing effect. Claim 26 is amended for clarity. Support for these amendments is found throughout the specification as originally filed.

Claims 11, 14, 16, 20 and 27-29 are cancelled in the present action without prejudice to pursuing claims of the same or similar scope in a continuation or divisional application, or in future prosecution of the present application. Claims 1-10, 12 and 23-24 were previously cancelled. No new claims have been added in the present action.

No new matter has been introduced.

Summary of the Invention as Claimed

One aspect of the pending claims as presently amended is directed to a **method** for cosmetic treatment of the human body comprising applying to the surface of the human body a composition comprising an extract of leaves of *Castanea sativa*, and at least one cosmetic and/or dermatopharmaceutical auxiliary and/or additive adapted for topical treatment of the human body,

selected from a Markush group of such substances, **wherein the treatment provides an anti-ageing effect** (claim 15).

A second aspect of the claims now pending is directed to a **method** for cosmetic treatment of the human body comprising applying to human **skin** a composition comprising (a) 0.001 to 10% by weight of a Castanea sativa leaf extract, and (b) at least one cosmetic and/or dermatopharmaceutical auxiliary and/or additive adapted for topical treatment of the human body, selected from a Markush group of such substances, **wherein the treatment provides an anti-ageing effect** (claim 25).

Rejections under 35 U.S.C. § 103(a)

Previously pending claims 11, 13-14, 20-22 and 27-29 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Withcl (Herbal Drugs and Phytopharmaceuticals: a Handbook for Practice on a Scientific Basis, CRC Press, 1994, pp. 132-133). Applicants respectfully traverse the rejection.

Withcl discloses medicinal uses of Castanea folium, Chestnut leaf, and methods of preparing the extract. A “tea” is made by either steeping finely cut leaves in boiling water, or boiling the cut leaves in water for a short time, followed by straining. Use of the aqueous extract in medicines, such as antitussives and expectorants, is disclosed.

Even though applicants do not necessarily agree with the Examiner’s characterizations of Withcl, in order to further prosecution, the claims have been amended in a manner which overcomes the Examiner’s rejection. Thus the claims as presently amended are directed to **cosmetic methods** of treating the human body comprising application of a composition comprising (a) a Castanea sativa leaf extract and (b) at least one cosmetic/dermatopharmaceutical auxiliary/additive, **wherein said treatment provides an anti-ageing effect**.

Taken *in toto*, there is simply no teaching, suggestion or motivation in Withcl that would lead one skilled in the art at the time of the invention to a method of treating a human body with a composition comprising a *Castanea sativa* leaf extract and at least one auxiliary and/or additive adapted for topical treatment of the human body, wherein an anti-ageing effect would be expected or observed.

Accordingly, at least for the above reasons, applicants respectfully submit that the claims as presently amended define novel and patentably unobvious subject matter over the cited art.

Previously pending claims 11, 13-22 and 25-29 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Chiej (The MacDonald Encyclopedia of Medicinal Plants, MacDonald Publishing, 1984, Plant number 72, *Castanea sativa*) in view of Grand (US 3,849,548), and the state of the art as evidenced by Chevallier (Encyclopedia of Herbal Medicine, 2nd American edition, DK Publishing, 2000, pp. 104, 291). Applicants respectfully traverse the rejection.

Chiej discloses that an infusion or fluid extract of *Castanea sativa* leaves and/or chestnut skins itself serves as a natural shampoo (note that the reference does not state that the shampoo comprises an extract of *Castanea sativa*). The infusions, as evidenced by Chevallier, do not include the step of removing the solvent, as required by applicants. Although Chiej teaches that infusions of *Castanea sativa* leaves/nut skins may be used as a natural shampoo (that is without any synthetic ingredients added thereto), there is clearly no support in Chiej for inclusion of the one or more auxiliaries and/or additives required by the present claims. Therefore the examiner joined Grand in order to overcome this deficiency in Chiej.

Grand discloses a method of improving the cosmetic condition of the skin or hair, comprising the step of applying thereto a conditioning amount of a composition comprising an aminopolyurea resin in a cosmetic vehicle. The cosmetic vehicle may optionally include "plant extracts". No specific plant is referenced; specifically, Grand is silent concerning *Castanea sativa*.

Even though applicants do not necessarily agree with the Examiner's characterizations of Chiej, Grand and Chevallier, in order to further prosecution, the claims have been amended in a manner which overcomes the Examiner's rejection. Thus the claims as presently amended are directed to **cosmetic methods** of treating the human body/skin comprising application of a composition comprising (a) a *Castanea sativa* leaf extract and (b) at least one cosmetic/dermopharmaceutical auxiliary/additive, **wherein said treatment provides an anti-ageing effect.**

Taken *in toto*, there is simply no teaching, suggestion or motivation in the combination of Chiej and Grand, as evidenced by Chevallier, that would lead one skilled in the art at the time of the invention to a method of treating a human body with a composition comprising a *Castanea sativa* leaf extract and at least one auxiliary and/or additive adapted for topical treatment of the human body, wherein an anti-ageing effect would be expected or observed.

Accordingly, at least for the above reasons, applicants respectfully submit that the claims as presently amended define novel and patentably unobvious subject matter over the cited combination of art.

Conclusion

In summary, in view of the above claim amendments and remarks, applicants respectfully submit that the invention as now claimed defines subject matter which is patentable over the cited documents, or alternatively, the claims as presently amended are in better condition for examination on appeal. Therefore, the Examiner is respectfully requested to enter the amendments, reconsider, withdraw the rejections, and allow the claims.

If any additional fees are required in support of this application, authorization is granted to charge our Deposit Account No. 50-1943.

Respectfully submitted,

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